

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES,)	
)	
Plaintiff,)	
)	Case No. 04-cr-385
v.)	
)	
ALI AL-TIMIMI,)	
)	
Defendants.)	
)	

DECLARATION OF CUSTODIAN OF RECORDS

I, Jeannie A. Johnson, being first duly sworn, upon oath, depose and say that:

1. I am of sound mind, capable of making this declaration, and personally acquainted with the facts herein stated.
2. I am employed as a Paralegal in Bryan Cave LLP's Washington, DC office, which is located at 1155 F Street, NW.
3. In that capacity, I have been assigned to support the litigation team working, *pro bono*, on Dr. Ali al-Timimi's behalf in the above captioned case.
4. In the normal course of business, I am routinely tasked with document management in my assigned cases. Those tasks may include, but are not limited to, reviewing and organizing hard copy and/or electronic files.
5. As the Paralegal supporting the al-Timimi case team, I was given a collection of thirty-two (32) CDs (individually a "Disc,"; collectively the "Discs") by a member of the case team and asked to catalog and review the files contained on each.

6. ~~It is my standard practice to first determine the type(s) of files on any media storage device given to me, ensure that I have access to the appropriate software to open and review such files, and have reasonable assurance that there is no security risk associated with opening such files.~~ In accordance with that practice, I inspected and catalogued each of the Discs given to me and noted and/or observed the details outlined below.

7. The Discs bear the brand marking "Sony CD-R Recordable Compact Disc Supremas - 700 MB Capacity" and the contents appeared to be audio files compatible with either the standard Microsoft PC media player software (ex: .wav or .mp3 files), or were executable when combined with certain application software included on various Discs (ex: .evi files opened using "Transcriber.exe").

8. Closer inspection of the file names led me to believe that the naming convention used included the following pieces of information: (a) the phone number of the intercepted/monitored line, (b) the date – typically in YYYY-MM-DD format, but always indicating the year, and (c) time the call was initiated. These beliefs were furthered by the information that appears on screen when using the "Transcriber.exe" software to execute the ".evi" audio files or the information contained in the related ".ini" files.

9. Using the Command Prompt interface software, which is a standard part of any modern Microsoft Windows operating system, I generated an index of each disc¹ and then summarized those indices in the chart below:²

[remainder of page intentionally blank; declarations continue on page 4]

¹ A sample index is attached as Exhibit 1 to this Declaration. Defense counsel will immediately and gladly provide copies of each index upon request from the Court.

² To avoid the release of any personal information, I have redacted the actual telephone numbers but I can submit a copy of this declaration with those numbers upon request of the Court.

BC Identifiers	Volume #: A	Initials & Date: B	Intercepted Phone Lines	Disc #:	Total Files on Disc:
Royer-1	041223_1328	JW-12/23/04	REDACTED ²	1/6	251
Royer-2	041223_1348	JW-12/23/04		2/6	4,486
Royer-3	041223_1331	JW-12/23/04		3/6	2,720
Royer-4	041223_1404	JW-12/23/04		4/6	2,727
Royer-5	041223_1418	JW-12/23/04		5/6	3,641
Royer-6	041223_1431	JW-12/23/04		6/6	5,222
Aatique-1	041223_1452	JW-12/23/04		1/3	954
Aatique-2	041223_1506	JW-12/23/04		2/3	500
Aatique-3	041223_1512	JW-12/23/04		3/3	516
Hamdi-1	041223_1439	JW-12/23/04		1/11	1,216
Hamdi-2	041223_1630	JW-12/23/04		2/11	200
Hamdi-3	041223_1624	JW-12/23/04		3/11	142
Hamdi-4	041223_1619	JW-12/23/04		4/11	334
Hamdi-5	041223_1608	JW-12/23/04		5/11	656
Hamdi-6	041223_1557	JW-12/23/04		6/11	526
Hamdi-7	041223_1539	JW-12/23/04		7/11	678
Hamdi-8	041223_1527	JW-12/23/04		8/11	722
Hamdi-9	041223_1514	JW-12/23/04		9/11	620
Hamdi-10	041223_1500	JW-12/23/04		10/11	546
Hamdi-11	041223_1449	JW-12/23/04		11/11	554
Khan-1	041223_1519	JW-12/23/04		1	839
Khan-2	041223_1534	JW-12/23/04		2	801
Khan-3	041223_1547	JW-12/23/04		3	219
Khan-4	041223_1551	JW-12/23/04		4	121
Khan-5	041223_1553	JW-12/23/04		5	57
Khan-6	041223_1555	JW-12/23/04		6	25
Khan-7	041223_1558	JW-12/23/04		7	847
Khan-8	041223_1610	JW-12/23/04		8	1205
Khan-9	041223_1622	JW-12/23/04		9	873
Khan-10	041223_1632	JW-12/23/04		10	69
Khan-11	041223_1638	JW-12/23/04		11	229
Khan-12	041223_1635	JW-12/23/04		12	441

^A extracted from disc's metadata^B written on face of disc; presumed to be initials of Special Agent John Wyman and dated as of the date that discs were created/finalized

10. ~~While generating indices of the Discs and reviewing a sampling of the files, I~~ found no indication that any of the files on any of the Discs, or the information contained therein, pre-dated 2003.

11. Other than audio files, and files used to execute the review platform for the “.evi” files found on the Discs, the only text files found were those with “.ini” file extensions, which I would categorize as “metadata” – or, more generally, various details about the information gathered, the methods, means, purpose, or scope of its collection. While the majority of these text files could be categorized as human-readable, they are unintelligible without further clarification on the meaning of the abbreviations and codes found within.

12. Given the volume of data included on the Discs, an in-depth review of every single file was not performed, however, a sampling of each file type was checked for usability and functionality.

13. I was subsequently asked to repeat the above-outlined process in order to review and catalogue the contents of a different CD, which bore no brand markings, details regarding its data storage capacity, or read-write capabilities. That CD had the following information hand-written on the otherwise blank, white face of the disc: “Copy TKneisle” (written top, center) and “Yahoo Court Order asad Ibn Muhammad Ismail royer Seif Chapman Groups” (written middle-left to bottom center). For ease of reference, this disc is hereinafter referred to as the “Yahoo! Groups Disc.”

14. Given the format (or, more accurately, lack thereof) of the files on the Yahoo! Groups Disc, it was virtually impossible to completely comprehend or state with certainty the scope of information contained therein. Despite the fact that a large portion of the text in the files appeared to be computer code used for internet-based transmissions, every effort was made

(including, but not limited to, visual inspection, use of standard search functions to perform key word searches, and attempts at converting files into a more user-friendly format) to perform an in-depth review of the substantive information within the files.

15. A summary of my findings is charted below:

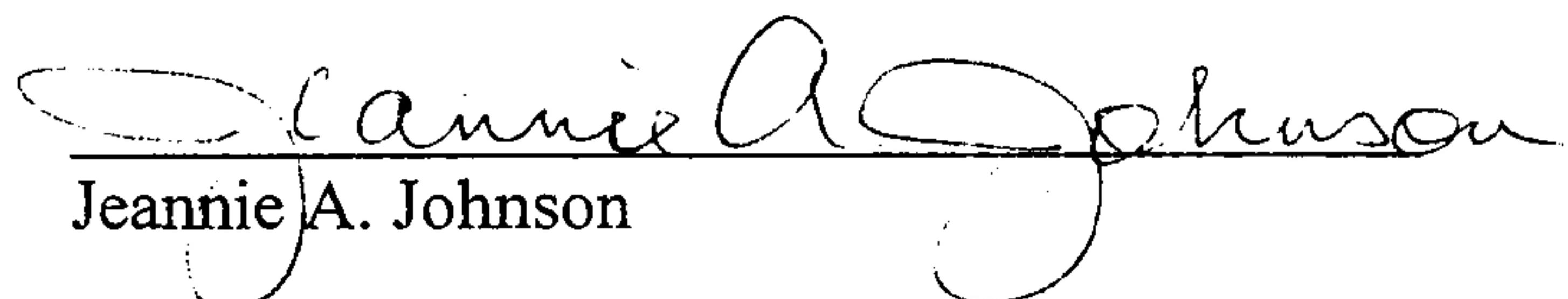
BC Identifier ^c	Volume Name ^c	Initials & Date ^c	Intercepted E-mail Addresses ^d	Disc #	Total Files on Disc ^c
Yahoo! Groups Disc	Yahoo	n/a	Yahoo Groups "muslim world news" and "islamic renewal;" seifchapman@yahoo.com, ismailroyer@yahoo.co, and masadibnmohammed@yahoo.co	n/a	21

^c extracted from disc's metadata

^d information extrapolated from Discovery Letter # 4 (See concurrently filed Exhibit D to Defendant's Rebuttal to Opposition at 2, ¶6(e))

16. While generating an index of the Yahoo! Groups Disc and reviewing the contents of the files contained thereon, I found no evidence, markings, or notations that would indicate that the files, or the information contained therein, was derived from Foreign Intelligence Surveillance Act authorized surveillance.

Dated: September 26, 2013

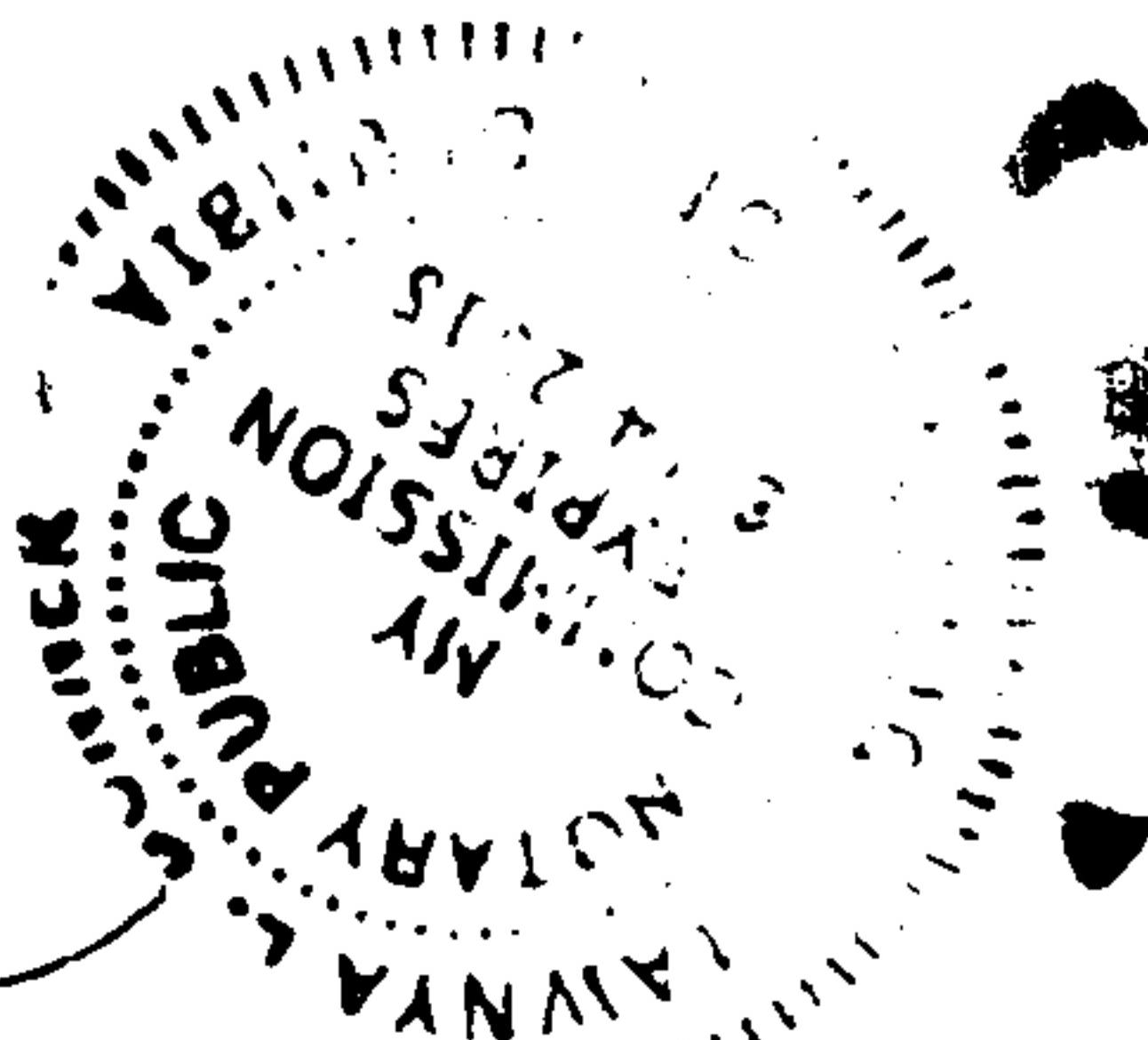

Jeannie A. Johnson

DISTRICT OF COLUMBIA:

Subscribed and sworn to before me this 26th day of September, 2013.



Tawnya L. Bonner
Notary Public, District of Columbia



My commission expires on 8/14/18.